



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0291

Introduced 1/19/2007, by Rep. Richard P. Myers

SYNOPSIS AS INTRODUCED:

| | |
|--------------------|--------------------------|
| 20 ILCS 505/5 | from Ch. 23, par. 5005 |
| 705 ILCS 405/2-10 | from Ch. 37, par. 802-10 |
| 705 ILCS 405/2-27 | from Ch. 37, par. 802-27 |
| 705 ILCS 405/5-710 | |

Amends the Children and Family Services Act and the Juvenile Court Act of 1987. Provides that a delinquent minor under 15 years of age (rather than under 13 years of age) may be placed in the guardianship of the Department of Children and Family Services.

LRB095 04251 RLC 24292 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Children and Family Services Act is amended
5 by changing Section 5 as follows:

6 (20 ILCS 505/5) (from Ch. 23, par. 5005)

7 Sec. 5. Direct child welfare services; Department of
8 Children and Family Services. To provide direct child welfare
9 services when not available through other public or private
10 child care or program facilities.

11 (a) For purposes of this Section:

12 (1) "Children" means persons found within the State who
13 are under the age of 18 years. The term also includes
14 persons under age 19 who:

15 (A) were committed to the Department pursuant to
16 the Juvenile Court Act or the Juvenile Court Act of
17 1987, as amended, prior to the age of 18 and who
18 continue under the jurisdiction of the court; or

19 (B) were accepted for care, service and training by
20 the Department prior to the age of 18 and whose best
21 interest in the discretion of the Department would be
22 served by continuing that care, service and training
23 because of severe emotional disturbances, physical

1 disability, social adjustment or any combination
2 thereof, or because of the need to complete an
3 educational or vocational training program.

4 (2) "Homeless youth" means persons found within the
5 State who are under the age of 19, are not in a safe and
6 stable living situation and cannot be reunited with their
7 families.

8 (3) "Child welfare services" means public social
9 services which are directed toward the accomplishment of
10 the following purposes:

11 (A) protecting and promoting the health, safety
12 and welfare of children, including homeless, dependent
13 or neglected children;

14 (B) remedying, or assisting in the solution of
15 problems which may result in, the neglect, abuse,
16 exploitation or delinquency of children;

17 (C) preventing the unnecessary separation of
18 children from their families by identifying family
19 problems, assisting families in resolving their
20 problems, and preventing the breakup of the family
21 where the prevention of child removal is desirable and
22 possible when the child can be cared for at home
23 without endangering the child's health and safety;

24 (D) restoring to their families children who have
25 been removed, by the provision of services to the child
26 and the families when the child can be cared for at

1 home without endangering the child's health and
2 safety;

3 (E) placing children in suitable adoptive homes,
4 in cases where restoration to the biological family is
5 not safe, possible or appropriate;

6 (F) assuring safe and adequate care of children
7 away from their homes, in cases where the child cannot
8 be returned home or cannot be placed for adoption. At
9 the time of placement, the Department shall consider
10 concurrent planning, as described in subsection (1-1)
11 of this Section so that permanency may occur at the
12 earliest opportunity. Consideration should be given so
13 that if reunification fails or is delayed, the
14 placement made is the best available placement to
15 provide permanency for the child;

16 (G) (blank);

17 (H) (blank); and

18 (I) placing and maintaining children in facilities
19 that provide separate living quarters for children
20 under the age of 18 and for children 18 years of age
21 and older, unless a child 18 years of age is in the
22 last year of high school education or vocational
23 training, in an approved individual or group treatment
24 program, in a licensed shelter facility, or secure
25 child care facility. The Department is not required to
26 place or maintain children:

- 1 (i) who are in a foster home, or
2 (ii) who are persons with a developmental
3 disability, as defined in the Mental Health and
4 Developmental Disabilities Code, or
5 (iii) who are female children who are
6 pregnant, pregnant and parenting or parenting, or
7 (iv) who are siblings, in facilities that
8 provide separate living quarters for children 18
9 years of age and older and for children under 18
10 years of age.

11 (b) Nothing in this Section shall be construed to authorize
12 the expenditure of public funds for the purpose of performing
13 abortions.

14 (c) The Department shall establish and maintain
15 tax-supported child welfare services and extend and seek to
16 improve voluntary services throughout the State, to the end
17 that services and care shall be available on an equal basis
18 throughout the State to children requiring such services.

19 (d) The Director may authorize advance disbursements for
20 any new program initiative to any agency contracting with the
21 Department. As a prerequisite for an advance disbursement, the
22 contractor must post a surety bond in the amount of the advance
23 disbursement and have a purchase of service contract approved
24 by the Department. The Department may pay up to 2 months
25 operational expenses in advance. The amount of the advance
26 disbursement shall be prorated over the life of the contract or

1 the remaining months of the fiscal year, whichever is less, and
2 the installment amount shall then be deducted from future
3 bills. Advance disbursement authorizations for new initiatives
4 shall not be made to any agency after that agency has operated
5 during 2 consecutive fiscal years. The requirements of this
6 Section concerning advance disbursements shall not apply with
7 respect to the following: payments to local public agencies for
8 child day care services as authorized by Section 5a of this
9 Act; and youth service programs receiving grant funds under
10 Section 17a-4.

11 (e) (Blank).

12 (f) (Blank).

13 (g) The Department shall establish rules and regulations
14 concerning its operation of programs designed to meet the goals
15 of child safety and protection, family preservation, family
16 reunification, and adoption, including but not limited to:

17 (1) adoption;

18 (2) foster care;

19 (3) family counseling;

20 (4) protective services;

21 (5) (blank);

22 (6) homemaker service;

23 (7) return of runaway children;

24 (8) (blank);

25 (9) placement under Section 5-7 of the Juvenile Court
26 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile

1 Court Act of 1987 in accordance with the federal Adoption
2 Assistance and Child Welfare Act of 1980; and

3 (10) interstate services.

4 Rules and regulations established by the Department shall
5 include provisions for training Department staff and the staff
6 of Department grantees, through contracts with other agencies
7 or resources, in alcohol and drug abuse screening techniques
8 approved by the Department of Human Services, as a successor to
9 the Department of Alcoholism and Substance Abuse, for the
10 purpose of identifying children and adults who should be
11 referred to an alcohol and drug abuse treatment program for
12 professional evaluation.

13 (h) If the Department finds that there is no appropriate
14 program or facility within or available to the Department for a
15 ward and that no licensed private facility has an adequate and
16 appropriate program or none agrees to accept the ward, the
17 Department shall create an appropriate individualized,
18 program-oriented plan for such ward. The plan may be developed
19 within the Department or through purchase of services by the
20 Department to the extent that it is within its statutory
21 authority to do.

22 (i) Service programs shall be available throughout the
23 State and shall include but not be limited to the following
24 services:

25 (1) case management;

26 (2) homemakers;

- 1 (3) counseling;
- 2 (4) parent education;
- 3 (5) day care; and
- 4 (6) emergency assistance and advocacy.

5 In addition, the following services may be made available
6 to assess and meet the needs of children and families:

- 7 (1) comprehensive family-based services;
- 8 (2) assessments;
- 9 (3) respite care; and
- 10 (4) in-home health services.

11 The Department shall provide transportation for any of the
12 services it makes available to children or families or for
13 which it refers children or families.

14 (j) The Department may provide categories of financial
15 assistance and education assistance grants, and shall
16 establish rules and regulations concerning the assistance and
17 grants, to persons who adopt physically or mentally
18 handicapped, older and other hard-to-place children who (i)
19 immediately prior to their adoption were legal wards of the
20 Department or (ii) were determined eligible for financial
21 assistance with respect to a prior adoption and who become
22 available for adoption because the prior adoption has been
23 dissolved and the parental rights of the adoptive parents have
24 been terminated or because the child's adoptive parents have
25 died. The Department may, subject to federal financial
26 participation in the cost, continue to provide financial

1 assistance and education assistance grants for a child who was
2 determined eligible for financial assistance under this
3 subsection (j) in the interim period beginning when the child's
4 adoptive parents died and ending with the finalization of the
5 new adoption of the child by another adoptive parent or
6 parents. The Department may also provide categories of
7 financial assistance and education assistance grants, and
8 shall establish rules and regulations for the assistance and
9 grants, to persons appointed guardian of the person under
10 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
11 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
12 who were wards of the Department for 12 months immediately
13 prior to the appointment of the guardian.

14 The amount of assistance may vary, depending upon the needs
15 of the child and the adoptive parents, as set forth in the
16 annual assistance agreement. Special purpose grants are
17 allowed where the child requires special service but such costs
18 may not exceed the amounts which similar services would cost
19 the Department if it were to provide or secure them as guardian
20 of the child.

21 Any financial assistance provided under this subsection is
22 inalienable by assignment, sale, execution, attachment,
23 garnishment, or any other remedy for recovery or collection of
24 a judgment or debt.

25 (j-5) The Department shall not deny or delay the placement
26 of a child for adoption if an approved family is available

1 either outside of the Department region handling the case, or
2 outside of the State of Illinois.

3 (k) The Department shall accept for care and training any
4 child who has been adjudicated neglected or abused, or
5 dependent committed to it pursuant to the Juvenile Court Act or
6 the Juvenile Court Act of 1987.

7 (l) Before July 1, 2000, the Department may provide, and
8 beginning July 1, 2000, the Department shall offer family
9 preservation services, as defined in Section 8.2 of the Abused
10 and Neglected Child Reporting Act, to help families, including
11 adoptive and extended families. Family preservation services
12 shall be offered (i) to prevent the placement of children in
13 substitute care when the children can be cared for at home or
14 in the custody of the person responsible for the children's
15 welfare, (ii) to reunite children with their families, or (iii)
16 to maintain an adoptive placement. Family preservation
17 services shall only be offered when doing so will not endanger
18 the children's health or safety. With respect to children who
19 are in substitute care pursuant to the Juvenile Court Act of
20 1987, family preservation services shall not be offered if a
21 goal other than those of subdivisions (A), (B), or (B-1) of
22 subsection (2) of Section 2-28 of that Act has been set.
23 Nothing in this paragraph shall be construed to create a
24 private right of action or claim on the part of any individual
25 or child welfare agency.

26 The Department shall notify the child and his family of the

1 Department's responsibility to offer and provide family
2 preservation services as identified in the service plan. The
3 child and his family shall be eligible for services as soon as
4 the report is determined to be "indicated". The Department may
5 offer services to any child or family with respect to whom a
6 report of suspected child abuse or neglect has been filed,
7 prior to concluding its investigation under Section 7.12 of the
8 Abused and Neglected Child Reporting Act. However, the child's
9 or family's willingness to accept services shall not be
10 considered in the investigation. The Department may also
11 provide services to any child or family who is the subject of
12 any report of suspected child abuse or neglect or may refer
13 such child or family to services available from other agencies
14 in the community, even if the report is determined to be
15 unfounded, if the conditions in the child's or family's home
16 are reasonably likely to subject the child or family to future
17 reports of suspected child abuse or neglect. Acceptance of such
18 services shall be voluntary.

19 The Department may, at its discretion except for those
20 children also adjudicated neglected or dependent, accept for
21 care and training any child who has been adjudicated addicted,
22 as a truant minor in need of supervision or as a minor
23 requiring authoritative intervention, under the Juvenile Court
24 Act or the Juvenile Court Act of 1987, but no such child shall
25 be committed to the Department by any court without the
26 approval of the Department. A minor charged with a criminal

1 offense under the Criminal Code of 1961 or adjudicated
2 delinquent shall not be placed in the custody of or committed
3 to the Department by any court, except a minor less than 15 ~~13~~
4 years of age committed to the Department under Section 5-710 of
5 the Juvenile Court Act of 1987.

6 (1-1) The legislature recognizes that the best interests of
7 the child require that the child be placed in the most
8 permanent living arrangement as soon as is practically
9 possible. To achieve this goal, the legislature directs the
10 Department of Children and Family Services to conduct
11 concurrent planning so that permanency may occur at the
12 earliest opportunity. Permanent living arrangements may
13 include prevention of placement of a child outside the home of
14 the family when the child can be cared for at home without
15 endangering the child's health or safety; reunification with
16 the family, when safe and appropriate, if temporary placement
17 is necessary; or movement of the child toward the most
18 permanent living arrangement and permanent legal status.

19 When determining reasonable efforts to be made with respect
20 to a child, as described in this subsection, and in making such
21 reasonable efforts, the child's health and safety shall be the
22 paramount concern.

23 When a child is placed in foster care, the Department shall
24 ensure and document that reasonable efforts were made to
25 prevent or eliminate the need to remove the child from the
26 child's home. The Department must make reasonable efforts to

1 reunify the family when temporary placement of the child occurs
2 unless otherwise required, pursuant to the Juvenile Court Act
3 of 1987. At any time after the dispositional hearing where the
4 Department believes that further reunification services would
5 be ineffective, it may request a finding from the court that
6 reasonable efforts are no longer appropriate. The Department is
7 not required to provide further reunification services after
8 such a finding.

9 A decision to place a child in substitute care shall be
10 made with considerations of the child's health, safety, and
11 best interests. At the time of placement, consideration should
12 also be given so that if reunification fails or is delayed, the
13 placement made is the best available placement to provide
14 permanency for the child.

15 The Department shall adopt rules addressing concurrent
16 planning for reunification and permanency. The Department
17 shall consider the following factors when determining
18 appropriateness of concurrent planning:

- 19 (1) the likelihood of prompt reunification;
- 20 (2) the past history of the family;
- 21 (3) the barriers to reunification being addressed by
22 the family;
- 23 (4) the level of cooperation of the family;
- 24 (5) the foster parents' willingness to work with the
25 family to reunite;
- 26 (6) the willingness and ability of the foster family to

1 provide an adoptive home or long-term placement;

2 (7) the age of the child;

3 (8) placement of siblings.

4 (m) The Department may assume temporary custody of any
5 child if:

6 (1) it has received a written consent to such temporary
7 custody signed by the parents of the child or by the parent
8 having custody of the child if the parents are not living
9 together or by the guardian or custodian of the child if
10 the child is not in the custody of either parent, or

11 (2) the child is found in the State and neither a
12 parent, guardian nor custodian of the child can be located.

13 If the child is found in his or her residence without a parent,
14 guardian, custodian or responsible caretaker, the Department
15 may, instead of removing the child and assuming temporary
16 custody, place an authorized representative of the Department
17 in that residence until such time as a parent, guardian or
18 custodian enters the home and expresses a willingness and
19 apparent ability to ensure the child's health and safety and
20 resume permanent charge of the child, or until a relative
21 enters the home and is willing and able to ensure the child's
22 health and safety and assume charge of the child until a
23 parent, guardian or custodian enters the home and expresses
24 such willingness and ability to ensure the child's safety and
25 resume permanent charge. After a caretaker has remained in the
26 home for a period not to exceed 12 hours, the Department must

1 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
2 5-415 of the Juvenile Court Act of 1987.

3 The Department shall have the authority, responsibilities
4 and duties that a legal custodian of the child would have
5 pursuant to subsection (9) of Section 1-3 of the Juvenile Court
6 Act of 1987. Whenever a child is taken into temporary custody
7 pursuant to an investigation under the Abused and Neglected
8 Child Reporting Act, or pursuant to a referral and acceptance
9 under the Juvenile Court Act of 1987 of a minor in limited
10 custody, the Department, during the period of temporary custody
11 and before the child is brought before a judicial officer as
12 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
13 Court Act of 1987, shall have the authority, responsibilities
14 and duties that a legal custodian of the child would have under
15 subsection (9) of Section 1-3 of the Juvenile Court Act of
16 1987.

17 The Department shall ensure that any child taken into
18 custody is scheduled for an appointment for a medical
19 examination.

20 A parent, guardian or custodian of a child in the temporary
21 custody of the Department who would have custody of the child
22 if he were not in the temporary custody of the Department may
23 deliver to the Department a signed request that the Department
24 surrender the temporary custody of the child. The Department
25 may retain temporary custody of the child for 10 days after the
26 receipt of the request, during which period the Department may

1 cause to be filed a petition pursuant to the Juvenile Court Act
2 of 1987. If a petition is so filed, the Department shall retain
3 temporary custody of the child until the court orders
4 otherwise. If a petition is not filed within the 10 day period,
5 the child shall be surrendered to the custody of the requesting
6 parent, guardian or custodian not later than the expiration of
7 the 10 day period, at which time the authority and duties of
8 the Department with respect to the temporary custody of the
9 child shall terminate.

10 (m-1) The Department may place children under 18 years of
11 age in a secure child care facility licensed by the Department
12 that cares for children who are in need of secure living
13 arrangements for their health, safety, and well-being after a
14 determination is made by the facility director and the Director
15 or the Director's designate prior to admission to the facility
16 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
17 This subsection (m-1) does not apply to a child who is subject
18 to placement in a correctional facility operated pursuant to
19 Section 3-15-2 of the Unified Code of Corrections, unless the
20 child is a ward who was placed under the care of the Department
21 before being subject to placement in a correctional facility
22 and a court of competent jurisdiction has ordered placement of
23 the child in a secure care facility.

24 (n) The Department may place children under 18 years of age
25 in licensed child care facilities when in the opinion of the
26 Department, appropriate services aimed at family preservation

1 have been unsuccessful and cannot ensure the child's health and
2 safety or are unavailable and such placement would be for their
3 best interest. Payment for board, clothing, care, training and
4 supervision of any child placed in a licensed child care
5 facility may be made by the Department, by the parents or
6 guardians of the estates of those children, or by both the
7 Department and the parents or guardians, except that no
8 payments shall be made by the Department for any child placed
9 in a licensed child care facility for board, clothing, care,
10 training and supervision of such a child that exceed the
11 average per capita cost of maintaining and of caring for a
12 child in institutions for dependent or neglected children
13 operated by the Department. However, such restriction on
14 payments does not apply in cases where children require
15 specialized care and treatment for problems of severe emotional
16 disturbance, physical disability, social adjustment, or any
17 combination thereof and suitable facilities for the placement
18 of such children are not available at payment rates within the
19 limitations set forth in this Section. All reimbursements for
20 services delivered shall be absolutely inalienable by
21 assignment, sale, attachment, garnishment or otherwise.

22 (o) The Department shall establish an administrative
23 review and appeal process for children and families who request
24 or receive child welfare services from the Department. Children
25 who are wards of the Department and are placed by private child
26 welfare agencies, and foster families with whom those children

1 are placed, shall be afforded the same procedural and appeal
2 rights as children and families in the case of placement by the
3 Department, including the right to an initial review of a
4 private agency decision by that agency. The Department shall
5 insure that any private child welfare agency, which accepts
6 wards of the Department for placement, affords those rights to
7 children and foster families. The Department shall accept for
8 administrative review and an appeal hearing a complaint made by
9 (i) a child or foster family concerning a decision following an
10 initial review by a private child welfare agency or (ii) a
11 prospective adoptive parent who alleges a violation of
12 subsection (j-5) of this Section. An appeal of a decision
13 concerning a change in the placement of a child shall be
14 conducted in an expedited manner.

15 (p) There is hereby created the Department of Children and
16 Family Services Emergency Assistance Fund from which the
17 Department may provide special financial assistance to
18 families which are in economic crisis when such assistance is
19 not available through other public or private sources and the
20 assistance is deemed necessary to prevent dissolution of the
21 family unit or to reunite families which have been separated
22 due to child abuse and neglect. The Department shall establish
23 administrative rules specifying the criteria for determining
24 eligibility for and the amount and nature of assistance to be
25 provided. The Department may also enter into written agreements
26 with private and public social service agencies to provide

1 emergency financial services to families referred by the
2 Department. Special financial assistance payments shall be
3 available to a family no more than once during each fiscal year
4 and the total payments to a family may not exceed \$500 during a
5 fiscal year.

6 (q) The Department may receive and use, in their entirety,
7 for the benefit of children any gift, donation or bequest of
8 money or other property which is received on behalf of such
9 children, or any financial benefits to which such children are
10 or may become entitled while under the jurisdiction or care of
11 the Department.

12 The Department shall set up and administer no-cost,
13 interest-bearing accounts in appropriate financial
14 institutions for children for whom the Department is legally
15 responsible and who have been determined eligible for Veterans'
16 Benefits, Social Security benefits, assistance allotments from
17 the armed forces, court ordered payments, parental voluntary
18 payments, Supplemental Security Income, Railroad Retirement
19 payments, Black Lung benefits, or other miscellaneous
20 payments. Interest earned by each account shall be credited to
21 the account, unless disbursed in accordance with this
22 subsection.

23 In disbursing funds from children's accounts, the
24 Department shall:

25 (1) Establish standards in accordance with State and
26 federal laws for disbursing money from children's

1 accounts. In all circumstances, the Department's
2 "Guardianship Administrator" or his or her designee must
3 approve disbursements from children's accounts. The
4 Department shall be responsible for keeping complete
5 records of all disbursements for each account for any
6 purpose.

7 (2) Calculate on a monthly basis the amounts paid from
8 State funds for the child's board and care, medical care
9 not covered under Medicaid, and social services; and
10 utilize funds from the child's account, as covered by
11 regulation, to reimburse those costs. Monthly,
12 disbursements from all children's accounts, up to 1/12 of
13 \$13,000,000, shall be deposited by the Department into the
14 General Revenue Fund and the balance over 1/12 of
15 \$13,000,000 into the DCFS Children's Services Fund.

16 (3) Maintain any balance remaining after reimbursing
17 for the child's costs of care, as specified in item (2).
18 The balance shall accumulate in accordance with relevant
19 State and federal laws and shall be disbursed to the child
20 or his or her guardian, or to the issuing agency.

21 (r) The Department shall promulgate regulations
22 encouraging all adoption agencies to voluntarily forward to the
23 Department or its agent names and addresses of all persons who
24 have applied for and have been approved for adoption of a
25 hard-to-place or handicapped child and the names of such
26 children who have not been placed for adoption. A list of such

1 names and addresses shall be maintained by the Department or
2 its agent, and coded lists which maintain the confidentiality
3 of the person seeking to adopt the child and of the child shall
4 be made available, without charge, to every adoption agency in
5 the State to assist the agencies in placing such children for
6 adoption. The Department may delegate to an agent its duty to
7 maintain and make available such lists. The Department shall
8 ensure that such agent maintains the confidentiality of the
9 person seeking to adopt the child and of the child.

10 (s) The Department of Children and Family Services may
11 establish and implement a program to reimburse Department and
12 private child welfare agency foster parents licensed by the
13 Department of Children and Family Services for damages
14 sustained by the foster parents as a result of the malicious or
15 negligent acts of foster children, as well as providing third
16 party coverage for such foster parents with regard to actions
17 of foster children to other individuals. Such coverage will be
18 secondary to the foster parent liability insurance policy, if
19 applicable. The program shall be funded through appropriations
20 from the General Revenue Fund, specifically designated for such
21 purposes.

22 (t) The Department shall perform home studies and
23 investigations and shall exercise supervision over visitation
24 as ordered by a court pursuant to the Illinois Marriage and
25 Dissolution of Marriage Act or the Adoption Act only if:

26 (1) an order entered by an Illinois court specifically

1 directs the Department to perform such services; and

2 (2) the court has ordered one or both of the parties to
3 the proceeding to reimburse the Department for its
4 reasonable costs for providing such services in accordance
5 with Department rules, or has determined that neither party
6 is financially able to pay.

7 The Department shall provide written notification to the
8 court of the specific arrangements for supervised visitation
9 and projected monthly costs within 60 days of the court order.
10 The Department shall send to the court information related to
11 the costs incurred except in cases where the court has
12 determined the parties are financially unable to pay. The court
13 may order additional periodic reports as appropriate.

14 (u) In addition to other information that must be provided,
15 whenever the Department places a child with a prospective
16 adoptive parent or parents or in a licensed foster home, group
17 home, child care institution, or in a relative home, the
18 Department shall provide to the prospective adoptive parent or
19 parents or other caretaker:

20 (1) available detailed information concerning the
21 child's educational and health history, copies of
22 immunization records (including insurance and medical card
23 information), a history of the child's previous
24 placements, if any, and reasons for placement changes
25 excluding any information that identifies or reveals the
26 location of any previous caretaker;

1 (2) a copy of the child's portion of the client service
2 plan, including any visitation arrangement, and all
3 amendments or revisions to it as related to the child; and

4 (3) information containing details of the child's
5 individualized educational plan when the child is
6 receiving special education services.

7 The caretaker shall be informed of any known social or
8 behavioral information (including, but not limited to,
9 criminal background, fire setting, perpetuation of sexual
10 abuse, destructive behavior, and substance abuse) necessary to
11 care for and safeguard the children to be placed or currently
12 in the home. The Department may prepare a written summary of
13 the information required by this paragraph, which may be
14 provided to the foster or prospective adoptive parent in
15 advance of a placement. The foster or prospective adoptive
16 parent may review the supporting documents in the child's file
17 in the presence of casework staff. In the case of an emergency
18 placement, casework staff shall at least provide known
19 information verbally, if necessary, and must subsequently
20 provide the information in writing as required by this
21 subsection.

22 The information described in this subsection shall be
23 provided in writing. In the case of emergency placements when
24 time does not allow prior review, preparation, and collection
25 of written information, the Department shall provide such
26 information as it becomes available. Within 10 business days

1 after placement, the Department shall obtain from the
2 prospective adoptive parent or parents or other caretaker a
3 signed verification of receipt of the information provided.
4 Within 10 business days after placement, the Department shall
5 provide to the child's guardian ad litem a copy of the
6 information provided to the prospective adoptive parent or
7 parents or other caretaker. The information provided to the
8 prospective adoptive parent or parents or other caretaker shall
9 be reviewed and approved regarding accuracy at the supervisory
10 level.

11 (u-5) Effective July 1, 1995, only foster care placements
12 licensed as foster family homes pursuant to the Child Care Act
13 of 1969 shall be eligible to receive foster care payments from
14 the Department. Relative caregivers who, as of July 1, 1995,
15 were approved pursuant to approved relative placement rules
16 previously promulgated by the Department at 89 Ill. Adm. Code
17 335 and had submitted an application for licensure as a foster
18 family home may continue to receive foster care payments only
19 until the Department determines that they may be licensed as a
20 foster family home or that their application for licensure is
21 denied or until September 30, 1995, whichever occurs first.

22 (v) The Department shall access criminal history record
23 information as defined in the Illinois Uniform Conviction
24 Information Act and information maintained in the adjudicatory
25 and dispositional record system as defined in Section 2605-355
26 of the Department of State Police Law (20 ILCS 2605/2605-355)

1 if the Department determines the information is necessary to
2 perform its duties under the Abused and Neglected Child
3 Reporting Act, the Child Care Act of 1969, and the Children and
4 Family Services Act. The Department shall provide for
5 interactive computerized communication and processing
6 equipment that permits direct on-line communication with the
7 Department of State Police's central criminal history data
8 repository. The Department shall comply with all certification
9 requirements and provide certified operators who have been
10 trained by personnel from the Department of State Police. In
11 addition, one Office of the Inspector General investigator
12 shall have training in the use of the criminal history
13 information access system and have access to the terminal. The
14 Department of Children and Family Services and its employees
15 shall abide by rules and regulations established by the
16 Department of State Police relating to the access and
17 dissemination of this information.

18 (w) Within 120 days of August 20, 1995 (the effective date
19 of Public Act 89-392), the Department shall prepare and submit
20 to the Governor and the General Assembly, a written plan for
21 the development of in-state licensed secure child care
22 facilities that care for children who are in need of secure
23 living arrangements for their health, safety, and well-being.
24 For purposes of this subsection, secure care facility shall
25 mean a facility that is designed and operated to ensure that
26 all entrances and exits from the facility, a building or a

1 distinct part of the building, are under the exclusive control
2 of the staff of the facility, whether or not the child has the
3 freedom of movement within the perimeter of the facility,
4 building, or distinct part of the building. The plan shall
5 include descriptions of the types of facilities that are needed
6 in Illinois; the cost of developing these secure care
7 facilities; the estimated number of placements; the potential
8 cost savings resulting from the movement of children currently
9 out-of-state who are projected to be returned to Illinois; the
10 necessary geographic distribution of these facilities in
11 Illinois; and a proposed timetable for development of such
12 facilities.

13 (Source: P.A. 94-215, eff. 1-1-06; 94-1010, eff. 10-1-06.)

14 Section 10. The Juvenile Court Act of 1987 is amended by
15 changing Sections 2-10, 2-27, and 5-710 as follows:

16 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

17 Sec. 2-10. Temporary custody hearing. At the appearance of
18 the minor before the court at the temporary custody hearing,
19 all witnesses present shall be examined before the court in
20 relation to any matter connected with the allegations made in
21 the petition.

22 (1) If the court finds that there is not probable cause to
23 believe that the minor is abused, neglected or dependent it
24 shall release the minor and dismiss the petition.

1 (2) If the court finds that there is probable cause to
2 believe that the minor is abused, neglected or dependent, the
3 court shall state in writing the factual basis supporting its
4 finding and the minor, his or her parent, guardian, custodian
5 and other persons able to give relevant testimony shall be
6 examined before the court. The Department of Children and
7 Family Services shall give testimony concerning indicated
8 reports of abuse and neglect, of which they are aware of
9 through the central registry, involving the minor's parent,
10 guardian or custodian. After such testimony, the court may,
11 consistent with the health, safety and best interests of the
12 minor, enter an order that the minor shall be released upon the
13 request of parent, guardian or custodian if the parent,
14 guardian or custodian appears to take custody. Custodian shall
15 include any agency of the State which has been given custody or
16 wardship of the child. If it is consistent with the health,
17 safety and best interests of the minor, the court may also
18 prescribe shelter care and order that the minor be kept in a
19 suitable place designated by the court or in a shelter care
20 facility designated by the Department of Children and Family
21 Services or a licensed child welfare agency; however, a minor
22 charged with a criminal offense under the Criminal Code of 1961
23 or adjudicated delinquent shall not be placed in the custody of
24 or committed to the Department of Children and Family Services
25 by any court, except a minor less than 15 ~~13~~ years of age and
26 committed to the Department of Children and Family Services

1 under Section 5-710 of this Act or a minor for whom an
2 independent basis of abuse, neglect, or dependency exists,
3 which must be defined by departmental rule. In placing the
4 minor, the Department or other agency shall, to the extent
5 compatible with the court's order, comply with Section 7 of the
6 Children and Family Services Act. In determining the health,
7 safety and best interests of the minor to prescribe shelter
8 care, the court must find that it is a matter of immediate and
9 urgent necessity for the safety and protection of the minor or
10 of the person or property of another that the minor be placed
11 in a shelter care facility or that he or she is likely to flee
12 the jurisdiction of the court, and must further find that
13 reasonable efforts have been made or that, consistent with the
14 health, safety and best interests of the minor, no efforts
15 reasonably can be made to prevent or eliminate the necessity of
16 removal of the minor from his or her home. The court shall
17 require documentation from the Department of Children and
18 Family Services as to the reasonable efforts that were made to
19 prevent or eliminate the necessity of removal of the minor from
20 his or her home or the reasons why no efforts reasonably could
21 be made to prevent or eliminate the necessity of removal. When
22 a minor is placed in the home of a relative, the Department of
23 Children and Family Services shall complete a preliminary
24 background review of the members of the minor's custodian's
25 household in accordance with Section 4.3 of the Child Care Act
26 of 1969 within 90 days of that placement. If the minor is

1 ordered placed in a shelter care facility of the Department of
2 Children and Family Services or a licensed child welfare
3 agency, the court shall, upon request of the appropriate
4 Department or other agency, appoint the Department of Children
5 and Family Services Guardianship Administrator or other
6 appropriate agency executive temporary custodian of the minor
7 and the court may enter such other orders related to the
8 temporary custody as it deems fit and proper, including the
9 provision of services to the minor or his family to ameliorate
10 the causes contributing to the finding of probable cause or to
11 the finding of the existence of immediate and urgent necessity.

12 Where the Department of Children and Family Services
13 Guardianship Administrator is appointed as the executive
14 temporary custodian, the Department of Children and Family
15 Services shall file with the court and serve on the parties a
16 parent-child visiting plan, within 10 days, excluding weekends
17 and holidays, after the appointment. The parent-child visiting
18 plan shall set out the time and place of visits, the frequency
19 of visits, the length of visits, who shall be present at the
20 visits, and where appropriate, the minor's opportunities to
21 have telephone and mail communication with the parents. For
22 good cause, the court may waive the requirement to file the
23 parent-child visiting plan or extend the time for filing the
24 parent-child visiting plan. Any party may, by motion, request
25 the court to review the parent-child visiting plan to determine
26 whether it is reasonably calculated to expeditiously

1 facilitate the achievement of the permanency goal and is
2 consistent with the minor's best interest. The frequency,
3 duration, and locations of visitation shall be measured by the
4 needs of the child and family, and not by the convenience of
5 Department personnel. Child development principles shall be
6 considered by the court in its analysis of how frequent
7 visitation should be, how long it should last, where it should
8 take place, and who should be present. If upon motion of the
9 party to review the plan and after receiving evidence, the
10 court determines that the parent-child visiting plan is not
11 reasonably calculated to expeditiously facilitate the
12 achievement of the permanency goal or that the restrictions
13 placed on parent-child contact are contrary to the child's best
14 interests, the court shall put in writing the factual basis
15 supporting the determination and enter specific findings based
16 on the evidence. The court shall enter an order for the
17 Department to implement changes to the parent-child visiting
18 plan, consistent with the court's findings. At any stage of
19 proceeding, any party may by motion request the court to enter
20 any orders necessary to implement the parent-child visiting
21 plan. Nothing under this subsection (2) shall restrict the
22 court from granting discretionary authority to the Department
23 to increase opportunities for additional parent-child
24 contacts, without further court orders. Nothing in this
25 subsection (2) shall restrict the Department from immediately
26 restricting or terminating parent-child contact, without

1 either amending the parent-child visiting plan or obtaining a
2 court order, where the Department or its assigns reasonably
3 believe that continuation of parent-child contact, as set out
4 in the parent-child visiting plan, would be contrary to the
5 child's health, safety, and welfare. The Department shall file
6 with the court and serve on the parties any amendments to the
7 visitation plan within 10 days, excluding weekends and
8 holidays, of the change of the visitation. Any party may, by
9 motion, request the court to review the parent-child visiting
10 plan to determine whether the parent-child visiting plan is
11 reasonably calculated to expeditiously facilitate the
12 achievement of the permanency goal, and is consistent with the
13 minor's health, safety, and best interest.

14 Acceptance of services shall not be considered an admission
15 of any allegation in a petition made pursuant to this Act, nor
16 may a referral of services be considered as evidence in any
17 proceeding pursuant to this Act, except where the issue is
18 whether the Department has made reasonable efforts to reunite
19 the family. In making its findings that it is consistent with
20 the health, safety and best interests of the minor to prescribe
21 shelter care, the court shall state in writing (i) the factual
22 basis supporting its findings concerning the immediate and
23 urgent necessity for the protection of the minor or of the
24 person or property of another and (ii) the factual basis
25 supporting its findings that reasonable efforts were made to
26 prevent or eliminate the removal of the minor from his or her

1 home or that no efforts reasonably could be made to prevent or
2 eliminate the removal of the minor from his or her home. The
3 parents, guardian, custodian, temporary custodian and minor
4 shall each be furnished a copy of such written findings. The
5 temporary custodian shall maintain a copy of the court order
6 and written findings in the case record for the child. The
7 order together with the court's findings of fact in support
8 thereof shall be entered of record in the court.

9 Once the court finds that it is a matter of immediate and
10 urgent necessity for the protection of the minor that the minor
11 be placed in a shelter care facility, the minor shall not be
12 returned to the parent, custodian or guardian until the court
13 finds that such placement is no longer necessary for the
14 protection of the minor.

15 If the child is placed in the temporary custody of the
16 Department of Children and Family Services for his or her
17 protection, the court shall admonish the parents, guardian,
18 custodian or responsible relative that the parents must
19 cooperate with the Department of Children and Family Services,
20 comply with the terms of the service plans, and correct the
21 conditions which require the child to be in care, or risk
22 termination of their parental rights.

23 (3) If prior to the shelter care hearing for a minor
24 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
25 unable to serve notice on the party respondent, the shelter
26 care hearing may proceed ex-parte. A shelter care order from an

1 ex-parte hearing shall be endorsed with the date and hour of
 2 issuance and shall be filed with the clerk's office and entered
 3 of record. The order shall expire after 10 days from the time
 4 it is issued unless before its expiration it is renewed, at a
 5 hearing upon appearance of the party respondent, or upon an
 6 affidavit of the moving party as to all diligent efforts to
 7 notify the party respondent by notice as herein prescribed. The
 8 notice prescribed shall be in writing and shall be personally
 9 delivered to the minor or the minor's attorney and to the last
 10 known address of the other person or persons entitled to
 11 notice. The notice shall also state the nature of the
 12 allegations, the nature of the order sought by the State,
 13 including whether temporary custody is sought, and the
 14 consequences of failure to appear and shall contain a notice
 15 that the parties will not be entitled to further written
 16 notices or publication notices of proceedings in this case,
 17 including the filing of an amended petition or a motion to
 18 terminate parental rights, except as required by Supreme Court
 19 Rule 11; and shall explain the right of the parties and the
 20 procedures to vacate or modify a shelter care order as provided
 21 in this Section. The notice for a shelter care hearing shall be
 22 substantially as follows:

23 NOTICE TO PARENTS AND CHILDREN
 24 OF SHELTER CARE HEARING

25 On at, before the Honorable
 26, (address:), the State

1 of Illinois will present evidence (1) that (name of child
 2 or children) are abused, neglected
 3 or dependent for the following reasons:

4 and (2)
 5 that there is "immediate and urgent necessity" to remove
 6 the child or children from the responsible relative.

7 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
 8 PLACEMENT of the child or children in foster care until a
 9 trial can be held. A trial may not be held for up to 90
 10 days. You will not be entitled to further notices of
 11 proceedings in this case, including the filing of an
 12 amended petition or a motion to terminate parental rights.

13 At the shelter care hearing, parents have the following
 14 rights:

15 1. To ask the court to appoint a lawyer if they
 16 cannot afford one.

17 2. To ask the court to continue the hearing to
 18 allow them time to prepare.

19 3. To present evidence concerning:

20 a. Whether or not the child or children were
 21 abused, neglected or dependent.

22 b. Whether or not there is "immediate and
 23 urgent necessity" to remove the child from home
 24 (including: their ability to care for the child,
 25 conditions in the home, alternative means of
 26 protecting the child other than removal).

1 c. The best interests of the child.

2 4. To cross examine the State's witnesses.

3 The Notice for rehearings shall be substantially as
4 follows:

5 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
6 TO REHEARING ON TEMPORARY CUSTODY

7 If you were not present at and did not have adequate
8 notice of the Shelter Care Hearing at which temporary
9 custody of was awarded to
10, you have the right to request a full
11 rehearing on whether the State should have temporary
12 custody of To request this rehearing,
13 you must file with the Clerk of the Juvenile Court
14 (address):, in person or by
15 mailing a statement (affidavit) setting forth the
16 following:

17 1. That you were not present at the shelter care
18 hearing.

19 2. That you did not get adequate notice (explaining
20 how the notice was inadequate).

21 3. Your signature.

22 4. Signature must be notarized.

23 The rehearing should be scheduled within 48 hours of
24 your filing this affidavit.

25 At the rehearing, your rights are the same as at the

1 initial shelter care hearing. The enclosed notice explains
2 those rights.

3 At the Shelter Care Hearing, children have the
4 following rights:

5 1. To have a guardian ad litem appointed.

6 2. To be declared competent as a witness and to
7 present testimony concerning:

8 a. Whether they are abused, neglected or
9 dependent.

10 b. Whether there is "immediate and urgent
11 necessity" to be removed from home.

12 c. Their best interests.

13 3. To cross examine witnesses for other parties.

14 4. To obtain an explanation of any proceedings and
15 orders of the court.

16 (4) If the parent, guardian, legal custodian, responsible
17 relative, minor age 8 or over, or counsel of the minor did not
18 have actual notice of or was not present at the shelter care
19 hearing, he or she may file an affidavit setting forth these
20 facts, and the clerk shall set the matter for rehearing not
21 later than 48 hours, excluding Sundays and legal holidays,
22 after the filing of the affidavit. At the rehearing, the court
23 shall proceed in the same manner as upon the original hearing.

24 (5) Only when there is reasonable cause to believe that the
25 minor taken into custody is a person described in subsection
26 (3) of Section 5-105 may the minor be kept or detained in a

1 detention home or county or municipal jail. This Section shall
2 in no way be construed to limit subsection (6).

3 (6) No minor under 16 years of age may be confined in a
4 jail or place ordinarily used for the confinement of prisoners
5 in a police station. Minors under 17 years of age must be kept
6 separate from confined adults and may not at any time be kept
7 in the same cell, room, or yard with adults confined pursuant
8 to the criminal law.

9 (7) If the minor is not brought before a judicial officer
10 within the time period as specified in Section 2-9, the minor
11 must immediately be released from custody.

12 (8) If neither the parent, guardian or custodian appears
13 within 24 hours to take custody of a minor released upon
14 request pursuant to subsection (2) of this Section, then the
15 clerk of the court shall set the matter for rehearing not later
16 than 7 days after the original order and shall issue a summons
17 directed to the parent, guardian or custodian to appear. At the
18 same time the probation department shall prepare a report on
19 the minor. If a parent, guardian or custodian does not appear
20 at such rehearing, the judge may enter an order prescribing
21 that the minor be kept in a suitable place designated by the
22 Department of Children and Family Services or a licensed child
23 welfare agency.

24 (9) Notwithstanding any other provision of this Section any
25 interested party, including the State, the temporary
26 custodian, an agency providing services to the minor or family

1 under a service plan pursuant to Section 8.2 of the Abused and
2 Neglected Child Reporting Act, foster parent, or any of their
3 representatives, on notice to all parties entitled to notice,
4 may file a motion that it is in the best interests of the minor
5 to modify or vacate a temporary custody order on any of the
6 following grounds:

7 (a) It is no longer a matter of immediate and urgent
8 necessity that the minor remain in shelter care; or

9 (b) There is a material change in the circumstances of
10 the natural family from which the minor was removed and the
11 child can be cared for at home without endangering the
12 child's health or safety; or

13 (c) A person not a party to the alleged abuse, neglect
14 or dependency, including a parent, relative or legal
15 guardian, is capable of assuming temporary custody of the
16 minor; or

17 (d) Services provided by the Department of Children and
18 Family Services or a child welfare agency or other service
19 provider have been successful in eliminating the need for
20 temporary custody and the child can be cared for at home
21 without endangering the child's health or safety.

22 In ruling on the motion, the court shall determine whether
23 it is consistent with the health, safety and best interests of
24 the minor to modify or vacate a temporary custody order.

25 The clerk shall set the matter for hearing not later than
26 14 days after such motion is filed. In the event that the court

1 modifies or vacates a temporary custody order but does not
2 vacate its finding of probable cause, the court may order that
3 appropriate services be continued or initiated in behalf of the
4 minor and his or her family.

5 (10) When the court finds or has found that there is
6 probable cause to believe a minor is an abused minor as
7 described in subsection (2) of Section 2-3 and that there is an
8 immediate and urgent necessity for the abused minor to be
9 placed in shelter care, immediate and urgent necessity shall be
10 presumed for any other minor residing in the same household as
11 the abused minor provided:

12 (a) Such other minor is the subject of an abuse or
13 neglect petition pending before the court; and

14 (b) A party to the petition is seeking shelter care for
15 such other minor.

16 Once the presumption of immediate and urgent necessity has
17 been raised, the burden of demonstrating the lack of immediate
18 and urgent necessity shall be on any party that is opposing
19 shelter care for the other minor.

20 (Source: P.A. 94-604, eff. 1-1-06.)

21 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

22 Sec. 2-27. Placement; legal custody or guardianship.

23 (1) If the court determines and puts in writing the factual
24 basis supporting the determination of whether the parents,
25 guardian, or legal custodian of a minor adjudged a ward of the

1 court are unfit or are unable, for some reason other than
2 financial circumstances alone, to care for, protect, train or
3 discipline the minor or are unwilling to do so, and that the
4 health, safety, and best interest of the minor will be
5 jeopardized if the minor remains in the custody of his or her
6 parents, guardian or custodian, the court may at this hearing
7 and at any later point:

8 (a) place the minor in the custody of a suitable
9 relative or other person as legal custodian or guardian;

10 (a-5) with the approval of the Department of Children
11 and Family Services, place the minor in the subsidized
12 guardianship of a suitable relative or other person as
13 legal guardian; "subsidized guardianship" means a private
14 guardianship arrangement for children for whom the
15 permanency goals of return home and adoption have been
16 ruled out and who meet the qualifications for subsidized
17 guardianship as defined by the Department of Children and
18 Family Services in administrative rules;

19 (b) place the minor under the guardianship of a
20 probation officer;

21 (c) commit the minor to an agency for care or
22 placement, except an institution under the authority of the
23 Department of Corrections or of the Department of Children
24 and Family Services;

25 (d) commit the minor to the Department of Children and
26 Family Services for care and service; however, a minor

1 charged with a criminal offense under the Criminal Code of
2 1961 or adjudicated delinquent shall not be placed in the
3 custody of or committed to the Department of Children and
4 Family Services by any court, except a minor less than 15
5 ~~13~~ years of age and committed to the Department of Children
6 and Family Services under Section 5-710 of this Act. The
7 Department shall be given due notice of the pendency of the
8 action and the Guardianship Administrator of the
9 Department of Children and Family Services shall be
10 appointed guardian of the person of the minor. Whenever the
11 Department seeks to discharge a minor from its care and
12 service, the Guardianship Administrator shall petition the
13 court for an order terminating guardianship. The
14 Guardianship Administrator may designate one or more other
15 officers of the Department, appointed as Department
16 officers by administrative order of the Department
17 Director, authorized to affix the signature of the
18 Guardianship Administrator to documents affecting the
19 guardian-ward relationship of children for whom he or she
20 has been appointed guardian at such times as he or she is
21 unable to perform the duties of his or her office. The
22 signature authorization shall include but not be limited to
23 matters of consent of marriage, enlistment in the armed
24 forces, legal proceedings, adoption, major medical and
25 surgical treatment and application for driver's license.
26 Signature authorizations made pursuant to the provisions

1 of this paragraph shall be filed with the Secretary of
2 State and the Secretary of State shall provide upon payment
3 of the customary fee, certified copies of the authorization
4 to any court or individual who requests a copy.

5 (1.5) In making a determination under this Section, the
6 court shall also consider whether, based on health, safety, and
7 the best interests of the minor,

8 (a) appropriate services aimed at family preservation
9 and family reunification have been unsuccessful in
10 rectifying the conditions that have led to a finding of
11 unfitness or inability to care for, protect, train, or
12 discipline the minor, or

13 (b) no family preservation or family reunification
14 services would be appropriate,

15 and if the petition or amended petition contained an allegation
16 that the parent is an unfit person as defined in subdivision
17 (D) of Section 1 of the Adoption Act, and the order of
18 adjudication recites that parental unfitness was established
19 by clear and convincing evidence, the court shall, when
20 appropriate and in the best interest of the minor, enter an
21 order terminating parental rights and appointing a guardian
22 with power to consent to adoption in accordance with Section
23 2-29.

24 When making a placement, the court, wherever possible,
25 shall require the Department of Children and Family Services to
26 select a person holding the same religious belief as that of

1 the minor or a private agency controlled by persons of like
2 religious faith of the minor and shall require the Department
3 to otherwise comply with Section 7 of the Children and Family
4 Services Act in placing the child. In addition, whenever
5 alternative plans for placement are available, the court shall
6 ascertain and consider, to the extent appropriate in the
7 particular case, the views and preferences of the minor.

8 (2) When a minor is placed with a suitable relative or
9 other person pursuant to item (a) of subsection (1), the court
10 shall appoint him or her the legal custodian or guardian of the
11 person of the minor. When a minor is committed to any agency,
12 the court shall appoint the proper officer or representative
13 thereof as legal custodian or guardian of the person of the
14 minor. Legal custodians and guardians of the person of the
15 minor have the respective rights and duties set forth in
16 subsection (9) of Section 1-3 except as otherwise provided by
17 order of court; but no guardian of the person may consent to
18 adoption of the minor unless that authority is conferred upon
19 him or her in accordance with Section 2-29. An agency whose
20 representative is appointed guardian of the person or legal
21 custodian of the minor may place the minor in any child care
22 facility, but the facility must be licensed under the Child
23 Care Act of 1969 or have been approved by the Department of
24 Children and Family Services as meeting the standards
25 established for such licensing. No agency may place a minor
26 adjudicated under Sections 2-3 or 2-4 in a child care facility

1 unless the placement is in compliance with the rules and
2 regulations for placement under this Section promulgated by the
3 Department of Children and Family Services under Section 5 of
4 the Children and Family Services Act. Like authority and
5 restrictions shall be conferred by the court upon any probation
6 officer who has been appointed guardian of the person of a
7 minor.

8 (3) No placement by any probation officer or agency whose
9 representative is appointed guardian of the person or legal
10 custodian of a minor may be made in any out of State child care
11 facility unless it complies with the Interstate Compact on the
12 Placement of Children. Placement with a parent, however, is not
13 subject to that Interstate Compact.

14 (4) The clerk of the court shall issue to the legal
15 custodian or guardian of the person a certified copy of the
16 order of court, as proof of his authority. No other process is
17 necessary as authority for the keeping of the minor.

18 (5) Custody or guardianship granted under this Section
19 continues until the court otherwise directs, but not after the
20 minor reaches the age of 19 years except as set forth in
21 Section 2-31.

22 (6) (Blank).

23 (Source: P.A. 90-27, eff. 1-1-98; 90-28, eff. 1-1-98; 90-512,
24 eff. 8-22-97; 90-590, eff. 1-1-99; 90-608, eff. 6-30-98;
25 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

1 (705 ILCS 405/5-710)

2 Sec. 5-710. Kinds of sentencing orders.

3 (1) The following kinds of sentencing orders may be made in
4 respect of wards of the court:

5 (a) Except as provided in Sections 5-805, 5-810, 5-815,
6 a minor who is found guilty under Section 5-620 may be:

7 (i) put on probation or conditional discharge and
8 released to his or her parents, guardian or legal
9 custodian, provided, however, that any such minor who
10 is not committed to the Department of Juvenile Justice
11 under this subsection and who is found to be a
12 delinquent for an offense which is first degree murder,
13 a Class X felony, or a forcible felony shall be placed
14 on probation;

15 (ii) placed in accordance with Section 5-740, with
16 or without also being put on probation or conditional
17 discharge;

18 (iii) required to undergo a substance abuse
19 assessment conducted by a licensed provider and
20 participate in the indicated clinical level of care;

21 (iv) placed in the guardianship of the Department
22 of Children and Family Services, but only if the
23 delinquent minor is under 15 ~~13~~ years of age;

24 (v) placed in detention for a period not to exceed
25 30 days, either as the exclusive order of disposition
26 or, where appropriate, in conjunction with any other

1 order of disposition issued under this paragraph,
2 provided that any such detention shall be in a juvenile
3 detention home and the minor so detained shall be 10
4 years of age or older. However, the 30-day limitation
5 may be extended by further order of the court for a
6 minor under age 15 ~~13~~ committed to the Department of
7 Children and Family Services if the court finds that
8 the minor is a danger to himself or others. The minor
9 shall be given credit on the sentencing order of
10 detention for time spent in detention under Sections
11 5-501, 5-601, 5-710, or 5-720 of this Article as a
12 result of the offense for which the sentencing order
13 was imposed. The court may grant credit on a sentencing
14 order of detention entered under a violation of
15 probation or violation of conditional discharge under
16 Section 5-720 of this Article for time spent in
17 detention before the filing of the petition alleging
18 the violation. A minor shall not be deprived of credit
19 for time spent in detention before the filing of a
20 violation of probation or conditional discharge
21 alleging the same or related act or acts;

22 (vi) ordered partially or completely emancipated
23 in accordance with the provisions of the Emancipation
24 of Minors Act;

25 (vii) subject to having his or her driver's license
26 or driving privileges suspended for such time as

1 determined by the court but only until he or she
2 attains 18 years of age;

3 (viii) put on probation or conditional discharge
4 and placed in detention under Section 3-6039 of the
5 Counties Code for a period not to exceed the period of
6 incarceration permitted by law for adults found guilty
7 of the same offense or offenses for which the minor was
8 adjudicated delinquent, and in any event no longer than
9 upon attainment of age 21; this subdivision (viii)
10 notwithstanding any contrary provision of the law; or

11 (ix) ordered to undergo a medical or other
12 procedure to have a tattoo symbolizing allegiance to a
13 street gang removed from his or her body.

14 (b) A minor found to be guilty may be committed to the
15 Department of Juvenile Justice under Section 5-750 if the
16 minor is 13 years of age or older, provided that the
17 commitment to the Department of Juvenile Justice shall be
18 made only if a term of incarceration is permitted by law
19 for adults found guilty of the offense for which the minor
20 was adjudicated delinquent. The time during which a minor
21 is in custody before being released upon the request of a
22 parent, guardian or legal custodian shall be considered as
23 time spent in detention.

24 (c) When a minor is found to be guilty for an offense
25 which is a violation of the Illinois Controlled Substances
26 Act, the Cannabis Control Act, or the Methamphetamine

1 Control and Community Protection Act and made a ward of the
2 court, the court may enter a disposition order requiring
3 the minor to undergo assessment, counseling or treatment in
4 a substance abuse program approved by the Department of
5 Human Services.

6 (2) Any sentencing order other than commitment to the
7 Department of Juvenile Justice may provide for protective
8 supervision under Section 5-725 and may include an order of
9 protection under Section 5-730.

10 (3) Unless the sentencing order expressly so provides, it
11 does not operate to close proceedings on the pending petition,
12 but is subject to modification until final closing and
13 discharge of the proceedings under Section 5-750.

14 (4) In addition to any other sentence, the court may order
15 any minor found to be delinquent to make restitution, in
16 monetary or non-monetary form, under the terms and conditions
17 of Section 5-5-6 of the Unified Code of Corrections, except
18 that the "presentencing hearing" referred to in that Section
19 shall be the sentencing hearing for purposes of this Section.
20 The parent, guardian or legal custodian of the minor may be
21 ordered by the court to pay some or all of the restitution on
22 the minor's behalf, pursuant to the Parental Responsibility
23 Law. The State's Attorney is authorized to act on behalf of any
24 victim in seeking restitution in proceedings under this
25 Section, up to the maximum amount allowed in Section 5 of the
26 Parental Responsibility Law.

1 (5) Any sentencing order where the minor is committed or
2 placed in accordance with Section 5-740 shall provide for the
3 parents or guardian of the estate of the minor to pay to the
4 legal custodian or guardian of the person of the minor such
5 sums as are determined by the custodian or guardian of the
6 person of the minor as necessary for the minor's needs. The
7 payments may not exceed the maximum amounts provided for by
8 Section 9.1 of the Children and Family Services Act.

9 (6) Whenever the sentencing order requires the minor to
10 attend school or participate in a program of training, the
11 truant officer or designated school official shall regularly
12 report to the court if the minor is a chronic or habitual
13 truant under Section 26-2a of the School Code.

14 (7) In no event shall a guilty minor be committed to the
15 Department of Juvenile Justice for a period of time in excess
16 of that period for which an adult could be committed for the
17 same act.

18 (8) A minor found to be guilty for reasons that include a
19 violation of Section 21-1.3 of the Criminal Code of 1961 shall
20 be ordered to perform community service for not less than 30
21 and not more than 120 hours, if community service is available
22 in the jurisdiction. The community service shall include, but
23 need not be limited to, the cleanup and repair of the damage
24 that was caused by the violation or similar damage to property
25 located in the municipality or county in which the violation
26 occurred. The order may be in addition to any other order

1 authorized by this Section.

2 (8.5) A minor found to be guilty for reasons that include a
3 violation of Section 3.02 or Section 3.03 of the Humane Care
4 for Animals Act or paragraph (d) of subsection (1) of Section
5 21-1 of the Criminal Code of 1961 shall be ordered to undergo
6 medical or psychiatric treatment rendered by a psychiatrist or
7 psychological treatment rendered by a clinical psychologist.
8 The order may be in addition to any other order authorized by
9 this Section.

10 (9) In addition to any other sentencing order, the court
11 shall order any minor found to be guilty for an act which would
12 constitute, predatory criminal sexual assault of a child,
13 aggravated criminal sexual assault, criminal sexual assault,
14 aggravated criminal sexual abuse, or criminal sexual abuse if
15 committed by an adult to undergo medical testing to determine
16 whether the defendant has any sexually transmissible disease
17 including a test for infection with human immunodeficiency
18 virus (HIV) or any other identified causative agency of
19 acquired immunodeficiency syndrome (AIDS). Any medical test
20 shall be performed only by appropriately licensed medical
21 practitioners and may include an analysis of any bodily fluids
22 as well as an examination of the minor's person. Except as
23 otherwise provided by law, the results of the test shall be
24 kept strictly confidential by all medical personnel involved in
25 the testing and must be personally delivered in a sealed
26 envelope to the judge of the court in which the sentencing

1 order was entered for the judge's inspection in camera. Acting
2 in accordance with the best interests of the victim and the
3 public, the judge shall have the discretion to determine to
4 whom the results of the testing may be revealed. The court
5 shall notify the minor of the results of the test for infection
6 with the human immunodeficiency virus (HIV). The court shall
7 also notify the victim if requested by the victim, and if the
8 victim is under the age of 15 and if requested by the victim's
9 parents or legal guardian, the court shall notify the victim's
10 parents or the legal guardian, of the results of the test for
11 infection with the human immunodeficiency virus (HIV). The
12 court shall provide information on the availability of HIV
13 testing and counseling at the Department of Public Health
14 facilities to all parties to whom the results of the testing
15 are revealed. The court shall order that the cost of any test
16 shall be paid by the county and may be taxed as costs against
17 the minor.

18 (10) When a court finds a minor to be guilty the court
19 shall, before entering a sentencing order under this Section,
20 make a finding whether the offense committed either: (a) was
21 related to or in furtherance of the criminal activities of an
22 organized gang or was motivated by the minor's membership in or
23 allegiance to an organized gang, or (b) involved a violation of
24 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
25 a violation of any Section of Article 24 of the Criminal Code
26 of 1961, or a violation of any statute that involved the

1 wrongful use of a firearm. If the court determines the question
2 in the affirmative, and the court does not commit the minor to
3 the Department of Juvenile Justice, the court shall order the
4 minor to perform community service for not less than 30 hours
5 nor more than 120 hours, provided that community service is
6 available in the jurisdiction and is funded and approved by the
7 county board of the county where the offense was committed. The
8 community service shall include, but need not be limited to,
9 the cleanup and repair of any damage caused by a violation of
10 Section 21-1.3 of the Criminal Code of 1961 and similar damage
11 to property located in the municipality or county in which the
12 violation occurred. When possible and reasonable, the
13 community service shall be performed in the minor's
14 neighborhood. This order shall be in addition to any other
15 order authorized by this Section except for an order to place
16 the minor in the custody of the Department of Juvenile Justice.
17 For the purposes of this Section, "organized gang" has the
18 meaning ascribed to it in Section 10 of the Illinois Streetgang
19 Terrorism Omnibus Prevention Act.

20 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)